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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,259	03/10/2004	Kevin Ptasienski	7377-000009/US	5363
28997	7590	12/30/2005	EXAMINER	
			FASTOVSKY, LEONID M	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/797,259	PTASIENSKI ET AL.
	Examiner Leonid M. Fastovsky	Art Unit 3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 23 September 2005.  
2a)  This action is **FINAL**.                            2b)  This action is non-final.  
3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) 20-26 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-19 and 27 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 28 February 2005 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20050725.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of claims 1-19 and 27 in the reply filed on 7/14/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 20-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.
3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-9, 14, 17-19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mori et al (2005/0141845) in view of Holzen (3,851,150).

Mori discloses a layer heater 1 comprising a plurality of resistive layers 3 ([0078]) comprising a resistive circuit pattern (Fig. 1-9), the resistive circuit pattern defining a length, a thickness and constant or variable spacing and width (Fig. 3, 5-7, [0082]), wherein the heater layers 3 can be varied in resistance by changing its width and thickness thus inherently producing a variable watt density because of the various resistive thickness ([0078, 0083,0105]).

As for claim 7, the resistive pattern 3 is a group consisting of series (Fig. 1).

However, Mori does not disclose the thickness varied along the length. Holzen discloses a resistive layer 3,3' having a thickness  $h$  continuously varied along the length  $L$  (Fig. 1-3, col. 1, lines 55-68).

It would have been obvious to one having ordinary skill in the art to modify Mori's invention to include a resistive layer as taught by Holzen in order to achieve a variable power distribution and also made the thickness non-continuous as a choice that would have been determined by the user having a desired result in mind.

6. Claims 10 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mori in view of Holzen and further in view of Friel (4,882,466).

Mori in view of Holzen discloses substantially the claimed invention, but does not disclose a width having varied resistance along the length. Friel discloses an electrical device having a resistive layer 3 having a width varied along the length and inherently variable watt density (col. 4, lines 50-68). It would have been obvious to one having

ordinary skill in the art to modify the invention of Mori in view of Holzen to include a resistive layer having a variable width along the length as taught by Friel in order to achieve a variable power distribution.

7. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mori in view of Holzen and further in view of Juliano et al.

Mori in view of Holzen discloses substantially the claimed invention including a protective layer 2, but does not teach a dielectric layer. Juliano teaches substantially the claimed invention having a heater system (Fig. 6) comprising a plurality film resistive element 86, a dielectric layer 84 and protective layer 48. It would have been obvious to one having ordinary skill in the art to modify the invention of Mori in view of Holzen to include a dielectric layer as taught by Juliano in order to electrically insulate the heating structure from potential electrical shock.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mori in view of Holzen and further in view of Colbert et al (3,010,850).

Mori in view of Holzen discloses substantially the claimed invention, but does not disclose the resistive layer comprising a material having a variable composition. Colbert discloses a resistive layer 12 that may be of a variable composition (col. 11, lines 34-45). It would have been obvious to one having ordinary skill in the art to modify the invention of Mori in view of Holzen to include a resistive layer comprising a material having a variable composition as taught by Colbert in order to vary an electrical conductivity of the heater.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-19 and 27 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Leonid M Fastovsky  
Examiner  
Art Unit 3742

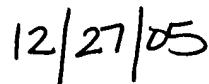
lmf



12/13/05



ROBIN O. EVANS  
PRIMARY EXAMINER



12/27/05